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7
8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**

10 **ASIS INTERNET SERVICES, a California**
corporation

11
12 **Plaintiff,**
vs.

13 **MEMBER SOURCE MEDIA, LLC, a**
14 **California limited liability company, et al.,**

15 **Defendants.**
16

Case No. C-08-1321 EMC

**ADMINISTRATIVE MOTION TO SEAL
CERTAIN DOCUMENTS FILED IN SUPPORT
OF PLAINTIFF'S OPPOSITION TO MOTION
TO STAY AND DECLARATION OF RICHARD
E. GRABOWSKI IN SUPPORT THEREOF**

DATE: IN CHAMBERS

17 **PLEASE TAKE NOTICE** that Plaintiff, ASIS INTERNET SERVICES hereby moves for
18 an order permitting the filing under seal of certain documents submitted in support of
19 Plaintiff's Opposition to Motion to Stay pursuant to Local Rule 79-5.

20 **I. PROCEDURAL HISTORY**

21 On July 11, 2008, this Court issued a Protective Order (Doc. #27), the terms of which
22 were stipulated to by Plaintiff and Defendant in this matter.

23 This Protective Order defines "Protected Material" as "any Disclosure or Discovery
24 Material that is designated as 'Confidential' or as 'Highly Confidential—Attorneys' Eyes Only'"
25 and prohibits the disclosure of "Protected Materials" except in certain enumerated
26 circumstances. Protective Order at 1:28-2:5. The Protective Order does not create any
27 entitlement in any party to file confidential information under seal, and it specifically
28 contemplates that any party desiring to file confidential information under seal will be required

1 to seek permission from the court pursuant to Civil Local Rule 79-5 to file such information.

2 Section 10 of the Protective Order is controlling. The section reads:

3 “Without written permission from the Designating Party or a court
4 order secured after appropriate notice to all interested persons, a
5 Party may not file in the public record in this action any Protected
6 Material. A Party that seeks to file under seal any Protected
7 Material must comply with Civil Local Rule 79-5.” Protective Order
8 at 10:11-14

7 II. ARGUMENT

8 Civil Local Rule 79-(b) and (d) provide that a party may request by motion, in
9 conformance with Civil L.R. 7-11, an order authorizing the sealing of part or all of a document
10 which is to be filed with the Court. The rule provides the court may issue a sealing order
11 where the information to be sealed in “privileged or protectable as a trade secret or otherwise
12 entitled to protection under the law.” The rule further provides that “[t]he request must be
13 narrowly tailored to seek sealing only of sealable material...” Civil L.R. 79-5(a).

14 Plaintiff moves to file under seal Exhibit E to the Declaration of NELLA WHITE.

- 15 1. Exhibits E & G consists of a CD containing the emails
16 received by ASIS Internet Services which are the subject of
17 the within action. (Both Exhibits are on 1 CD)

18 Plaintiff files this motion in compliance with the Protective Order in this case and as a
19 good faith effort to maintain the confidentiality of certain documents designated by the parties
20 as “Highly Confidential—Attorneys’ Eyes Only.”

20 III. CONCLUSION

21 Based on the foregoing, Plaintiff respectfully request the Court issue an order,
22 pursuant to Civil Local Rule 79-5(b), permitting Plaintiff to file under seal Exhibits E & G to the
23 Declaration of NELLA WHITE in support of Plaintiff’s Opposition to Motion to Stay.

24 SINGLETON LAW GROUP

25 Dated: August 18, 2008

26 /s/ Richard E. Grabowski
27 Richard E. Grabowski
28 Jason K. Singleton, Attorneys for Plaintiff,
ASIS INTERNET SERVICES

DECLARATION IN SUPPORT OF MOTION TO SEAL

I, RICHARD E. GRABOWSKI, declare as follows:

1. I am an attorney duly licensed to practice in the United States District Court, Northern District of California, and I am one of the attorneys of record for Plaintiff. I have personal and firsthand knowledge of each fact hereinafter set forth and if called to testify could and would competently testify to the matters set forth herein.

2. Exhibits E and G to the Declaration of NELLA WHITE has been designated confidential and are protected by the Protective Order approved by the Court (Doc. #27) on July 11, 2008.

3. Submitted herewith by manual filing are true and correct copies of the following:

Exhibits E & G: CD containing the emails received by ASIS
Internet Services which are the subject of the
within action.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Dated: August 18, 2008

/s/ Richard E. Grabowski
Richard E. Grabowski

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Case No. C-08-1321 EMC

**[PROPOSED] ORDER GRANTING
ADMINISTRATIVE MOTION TO FILE
CERTAIN DOCUMENTS UNDER SEAL**

17 Having considered the Administrative Motion of Plaintiff for an order permitting the
18 filing under seal of certain documents and good cause having been shown,

19 **IT IS HEREBY ORDERED** that Plaintiff's motion is GRANTED, and Plaintiff shall file
20 under seal the following pleadings:

21 Exhibits E & G: CD containing emails which are the subject of
22 the within action.

23 **Dated:** _____

24 **EDWARD M. CHEN**
25 **UNITED STATES MAGISTRATE JUDGE**
26
27
28